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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/666,799
Filing Date: September 18, 2003
Appellant(s): DUNN ET AL.

Volel Emile

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 02, 2007, appealing from the Office action mailed November 02, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20030033205

Nowers

2-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5 and 22-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Nowers (US Patent Application No. 20030033205) published February 13, 2003.

Regarding Claims 1,22,27,and 32, Nowers discloses a method of accessing data regarding commerce assets such as products or services offered at virtual stores participating in a virtual marketplace, the assets being organized by types, each type being enabled to include all versions of an asset, said method comprising the steps of:

establishing a storepath relationship to correlate asset types among the virtual stores ([0089], Nowers)¹;

consulting the storepath relationship for the asset type of a particular asset upon receiving a query from a user, the query including the particular asset and a particular virtual store indicating the virtual store at which the user desires to shop (Fig.3b; [0110], lines 6-12 and [0111], Nowers); and

returning data representing all the versions of the particular asset to the user as a response to the query (Fig.3c; [0112], lines 1-7, Nowers).

Regarding Claims 2,23,28,and 33, Nowers discloses the method wherein the data returned includes data representing availability of all the versions of the particular asset ([0112], lines 7-15 and [0113], Nowers)².

Regarding Claims 3,24,29,and 34, Nowers discloses the method wherein the data returned further includes data representing the virtual stores that carry versions of the particular asset as well as a price of the versions of the particular asset for comparison shopping (Fig.7d; [0165], Nowers)³.

Regarding Claims 4,25,30,and 35, Nowers discloses the method wherein one or more virtual stores can elect to not have available one or more of the different versions of the particular asset ([0094], Nowers).

Regarding Claims 5,26,31,and 36, Nowers discloses the method wherein when the user buys one of a particular asset or one of the virtual stores adds to the availability of the particular asset, the availability of the particular asset is dynamically updated ([0196-0197], Nowers).

¹ Examiner Notes: The common pooled repository is an example of the relationship between the virtual stores and the global product catalog demonstrates the correlation among asset types.

² Examiner Notes: Figs.4a-b represents the properties page for the first product listed within the results page "Houndstooth dress sock". However, it is known that each product will have its own properties page, which displays an inventory section (Fig.4b, item 108); wherein the availability of the product is stored ([0118], Nowers).

³ Examiner Notes: Figs.7e-f discloses the properties pages associated with each product. Within the properties page is "pricing" section, which provides a price for the product. Therefore, simply the user observing the differences within the products and making a decision from the results performs comparison shopping.

(10) Response to Argument

Applicant argues, Nowers does not teach **"the storepath relationship is consulted for the asset type of a particular asset upon receiving a query from a user, the query including a particular virtual store that indicates the virtual store at which the user desires to shop"** and that the **query is from a shopper**.

Examiner respectfully disagrees. To begin, Nowers shows at Fig.3b a search page available to the user, allowing the user to enter a keyword(s). Also Nowers discloses at paragraphs [0110-0111], wherein *"Selecting the search my catalog option opens a page displaying a product search engine as shown in FIG. 3b. The product search engine allows the vendor to search their vendor product catalog in the product database by keyword. The search can be performed across all categories or limited to a selected category highlighted in a category field...Searching can be further refined using additional criteria fields. Specifically, the additional criteria fields allow searches to be limited to new products, updated products and/or products associated with Internet retailers with whom the vendor has deals"*. The product search engine and entering of a keyword by the user/vendor corresponds to receiving a query from a user and the searching of the vendor product catalog corresponds to the consulting of the storepath relationship for the asset type of a particular asset (Further understanding of the storepath relationship can be found at [0089] and Footnote 1). The asset type of a particular asset is shown within Figs.3b-c, wherein Fig.3b discloses the 'keyword search' field and a list of browse categories (i.e., apparel, luggage, and personal toiletry) and Fig.3c discloses a list of the search results for dress

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socks. The dress socks are the asset type for the particular asset of apparel. Also, the additional criteria field for further refinement of the searching by allowing the vendor's to search for Internet retailers discloses the query including a particular virtual store, with which the user desires to shop. An additional example can be found within Fig.7d and paragraph [0165]. More so, paragraph [0107] states "*the search engine allows the vendor to search for Internet retailers registered in the ETS so that the vendor may establish new deals with Internet retailers*", which is a further example of a particular virtual store being included within the query, along with paragraph [0164], wherein "*the additional criteria fields allow searches to encompass all products or be limited to...products associated with a specified vendor*", is also a disclosure of the argued limitation. Lastly, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., 'query is from a shopper') is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In particular, it is noted that the claim language states that the query is from a user. Broadly speaking, anyone using the ETS system is essentially a "shopper" of some sort; for example, the vendor is "shopping" for an appropriate Internet retailer to sell their products.

Applicant argues, Nowers does not teach the step of **“returning data representing all the versions of the particular asset to the user as a response to the query”**.

Examiner respectfully disagrees. Nowers shows at Fig.3c a returned list of the search results from the query wherein the list comprises all of the versions for the asset type, dress socks. Also, paragraph [0112] states *“Fig.3c shows the vendor’s product catalog as displayed in response to selection of the “view all products” web page control. The products are presented in a list and are identified by name and category”*. Fig.3c and the citation above disclose all versions of the particular asset.

Applicant argues, since Nowers does not teach the above argues step of returning data representing all the versions of the particular asset to the user as a response to the query, then Nowers does not have any reason to teach “returning data representing availability of all versions of a particular asset as a result of the query”.

Examiner respectfully disagrees. To begin, as stated in the response above, Nowers teaches the limitation of “returning data representing all the versions of the particular asset to the user as a response to the query”. Therefore, Nowers definitely teaches the limitation of “returning data representing availability of all versions of a particular asset as a result of the query”. Evidence can be found at Figs.4a-b and paragraphs [0112], lines 6-15 and [0113], wherein *“the names are presented as web page controls that are linked to underlying product information pages. For example, FIGS. 4a and 4g show the product information pages associated with the first product in the vendor’s product*

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catalog. These pages expose information relating to the product that is stored in the product database...Properties page 100 also includes...an inventory status section (See Fig.4b, item 108)". Figs.4a-b represent the properties page for the first product listed within the results page, "Houndstooth dress sock". However, it is known that each product will have its own properties page, which displays an inventory status section (see [0112], lines 5-7, Nowers). Further details are disclosed at paragraph [0118], wherein "the inventory status section includes a field that displays an indication as to whether the product is stored as inventory in the common pooled repository".

Applicant argues, Nowers does not teach "all the Internet retailers that have selected to sell a product will be displayed to the shopper".

Examiner respectfully disagrees. Nowers discloses at paragraph [0124], wherein *"the deals page as shown in Fig.4d presents a list of the Internet retailers that have deals set up with the vendor concerning the product...In addition to the Internet retailers, the deals page identifies...the pricing model and amount established for the Internet retailers"*. This citation and figure disclose all of the retailers that have chosen to sell the product. Further Figs.7d-f and paragraph [0165] states, *"Fig.7d shows the results of a search for a specific product performed using the search engine of as presented on a product list page. The product list page identifies the names of the vendors selling the products and the names of the products...Icons provide a visual indication if the product is in the Internet retailer product catalog. The product names 500a are presented as web page controls that open product information pages. These product information pages are similar to the product information pages shown in Figs. 4a, 4b, 4c, 4e and 4f but exclude vendor sensitive information. For*

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example, Figs. 7e and 7f show the properties pages associated with a product selected from a product list". As stated Figs. 7e-f disclose the properties pages associates with each product. Within the properties page is a "pricing" section, which provides a price for the product. Therefore, the user simply has to observe the differences within the products and make a decision from the results to perform comparison shopping.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

An Appeal Conference was held on June 12, 2007 with conferees:

Chelcie Daye (Patent Examiner), Apu Mofiz (SPE), and Eddie Lee (SPE)

Respectfully submitted,

CLD

June 15, 2007

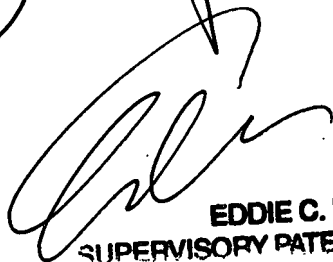
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Conferees:

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